

**ASSEMBLY BILL**

**No. 1207**

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**Introduced by Assembly Member Smyth**

February 23, 2007

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An act to amend Sections 43020 and 43035 of, and to add Section 43020.2 to, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1207, as introduced, Smyth. Solid waste: biosolids.

The existing Porter-Cologne Water Quality Control Act generally requires the California regional water quality control boards to prescribe waste discharge requirements for individual waste discharges. The act requires the State Water Resources Control Board or a regional board, upon receipt of an application for waste discharge requirements for discharges of dewatered, treated, or chemically fixed sewage sludge and other biological solids, to prescribe general waste discharge requirements for those sludges and solids, as specified. The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board (board), establishes an integrated waste management program, including the regulation of solid waste disposal. Existing law requires the board to adopt minimum standards for solid waste facilities.

This bill would require those minimum standards to include standards for the land application of biosolids.

The bill would require the board to adopt, by July 1, 2009, regulations for the land application of biosolids, which would include standards for the land application of biosolids according to sound principles of land use, agriculture, conservation, resource management, public health, and protection of ground water.

The bill would provide that the application of those regulations are uniform throughout the state. The bill would prohibit a local governmental entity from adopting or enforcing any ordinance or regulation that would be inconsistent with, or would have the effect of prohibiting an activity permitted by, those regulations adopted by the board.

The bill would provide that state law and board regulations adopted thereof relating to composting and disposal of biosolids is applicable and uniform throughout the state.

The bill would, notwithstanding any other provision of law, make any existing and future ordinance or regulations that are contrary to, inconsistent with, or have the effect of prohibiting an activity permitted by a regulation with regard to the composting and disposal of biosolids adopted by the board to be void and of no effect.

The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) In 1989, the Legislature enacted the California Integrated
- 4 Waste Management Act (Division 30 (commencing with Section
- 5 40000) of the Public Resources Code). The act was enacted to
- 6 reduce, recycle, and reuse solid waste generated in the state to the
- 7 maximum extent feasible in an efficient and cost-effective manner
- 8 to conserve water, energy, and other natural resources, to protect
- 9 the environment, to improve regulation of existing solid waste
- 10 landfills, to ensure that new solid waste landfills are
- 11 environmentally sound, to improve permitting procedures for solid
- 12 waste management facilities, and to specify the responsibilities of
- 13 local governments to develop and implement integrated waste
- 14 management programs.
- 15 (b) The California Integrated Waste Management Act requires
- 16 the California Integrated Waste Management Board and local
- 17 agencies to promote the following waste management practices in
- 18 order of priority:
- 19 (1) Source reduction.
- 20 (2) Recycling and composting.

1 (3) Environmentally safe transformation and environmentally  
2 safe land disposal, at the discretion of the city or county.

3 (4) Maximizing the use of all feasible source reduction,  
4 recycling, and composting options in order to reduce the amount  
5 of solid waste that is required to be disposed of by transformation  
6 and land disposal. For wastes that cannot feasibly be reduced at  
7 their source, recycled, or composted, the local agency may use  
8 environmentally safe transformation or environmentally safe land  
9 disposal, or both of those practices.

10 (c) The California Integrated Waste Management Board (board)  
11 is the state agency that has primary jurisdiction over recycling of  
12 solid waste. The board imposes requirements with respect to solid  
13 waste management and defines sewage sludge as not being a  
14 hazardous waste. The board includes the recycling of biosolids as  
15 part of the overall program.

16 (d) The board regulates the composting and disposal of biosolids  
17 and no further regulations are necessary for these management  
18 options.

19 (e) In July 2004, the California State Water Resources Control  
20 Board adopted State Water Quality Order 2004–0012 general waste  
21 discharge requirements regulating the land application of biosolids  
22 as a soil amendment or fertilizer and developed an environmental  
23 impact report to support the statewide general order. The general  
24 order is a regulatory process used to streamline the discharge of  
25 biosolids for use as a soil amendment.

26 (f) In 2005, as reported by the Environmental Protection Agency  
27 (EPA) for Region IX, the state generated approximately 752,000  
28 dry tons of biosolids, of which 78 percent was beneficially used  
29 and 30 percent of that amount was land applied.

30 (g) Based on that EPA Region IX data, approximately 75 percent  
31 of the biosolids generated in the state was beneficially managed  
32 outside of the county where it was generated, which included six  
33 counties exporting biosolids to Kern County, three counties  
34 exporting to Merced County, and two counties exporting to  
35 Sacramento County.

36 (h) The EPA has adopted rules under Part 503 (commencing  
37 with Section 503.1) of Subchapter O of Chapter 1 of Title 40 of  
38 the Code of Federal Regulations (503 rules) that result in the safe  
39 and beneficial use of biosolids when properly managed in  
40 accordance with their rules.

1 (i) Since the promulgation of 503 rules in 1993, biosolids  
2 management practices in California have shifted from mostly  
3 disposal, including ocean disposal or landfilling, to mostly reuse,  
4 and biosolids reuse, through land application and other means, is  
5 both regulated and encouraged by the 503 regulations.

6 (j) Several cities and counties have established a patchwork of  
7 ordinances and regulations that ban or severely restrict the use of  
8 biosolids for land application, creating a problem for local  
9 government agencies by limiting the number of environmentally  
10 sound options available for managing biosolids and restricting  
11 their ability to safely manage the biosolids that are generated.

12 (k) It is the policy of the State of California, in furtherance of  
13 its responsibility to protect the public health and safety, and to  
14 institute and maintain a regulatory program for biosolids  
15 management.

16 (l) The state desires to regulate the application of biosolids to  
17 agricultural land in a manner that is safe, environmentally  
18 beneficial, and sensitive to the needs of the communities involved.

19 SEC. 2. Section 43020 of the Public Resources Code is  
20 amended to read:

21 43020. ~~The~~ (a) *The Legislature declares that it is in the public*  
22 *interest to establish an effective process to manage biosolids that*  
23 *will protect public health and safety. This process is consistent*  
24 *with the responsibility of local government to ensure that adequate*  
25 *treatment and disposal capacity is available to manage the*  
26 *biosolids generated in California in a safe and environmentally*  
27 *beneficial manner.*

28 (b) *The board shall adopt and revise regulations which that set*  
29 *forth minimum standards for solid waste handling, transfer,*  
30 *composting, transformation, and disposal, including standards for*  
31 *the land application of biosolids, in accordance with this division,*  
32 *and Section 117590 of, and Chapter 6.5 (commencing with Section*  
33 *25100) of Division 20 of, the Health and Safety Code. The board*  
34 *shall not include any requirements that are already under the*  
35 *authority of the State Air Resources Board for the prevention of*  
36 *air pollution or of the state water board for the prevention of water*  
37 *pollution.*

38 SEC. 3. Section 43020.2 is added to the Public Resources Code,  
39 to read:

1 43020.2. (a) For the purposes of this section, the following  
2 definitions shall apply:

3 (1) “Biosolids” means the solid, semisolid, or liquid residue  
4 generated during the treatment of domestic sewage in a treatment  
5 works. “Biosolids” include, but are not limited to, treated domestic  
6 septage and scum or solids removed in primary, secondary, or  
7 advanced wastewater treatment processes or solids that have been  
8 dried or stabilized. “Biosolids” do not include any of the following:

9 (A) Compost.

10 (B) Ash generated during the firing of sewage sludge in a  
11 sewage sludge incinerator or grit and screenings generated during  
12 the preliminary treatment of domestic sewage in a treatment works.

13 (2) “Land application” means the application of biosolids to  
14 land to either condition the soil or to fertilize crops or other  
15 vegetation grown in soil.

16 (b) (1) On or before July 1, 2009, as part of the existing  
17 regulatory review process for regulations adopted pursuant to this  
18 article, the board shall adopt regulations for the land application  
19 of biosolids, consistent with the Federal Water Pollution Control  
20 Act, as amended (33 U.S.C. Sec. 1251 et seq.), the federal  
21 prohibition on ocean disposal, the state policy to encourage reuse  
22 instead of disposal, and the proven economic and environmental  
23 benefits of biosolids.

24 (2) The regulations adopted by the board pursuant to this section  
25 shall include standards for the land application of biosolids  
26 according to sound principles of land use, agriculture, conservation,  
27 resource management, public health, and protection of ground  
28 water.

29 (3) In adopting these regulations, the board shall consult with  
30 the State Water Resources Control Board regarding standards for  
31 groundwater protection.

32 (c) This section does not authorize the board to adopt regulations  
33 that are less stringent than those adopted by the Environmental  
34 Protection Agency pursuant to Part 503 (commencing with Section  
35 503.1) of Subchapter O of Chapter 1 of Title 40 of the Code of  
36 Federal Regulations.

37 (d) (1) The provisions of this division and the regulations  
38 adopted pursuant to these provisions for composting and the  
39 disposal of biosolids, including, but not limited to, the land  
40 application of biosolids and other biological solids, are applicable

1 and uniform throughout the state and in all counties and  
2 municipalities therein. No city, county or other political subdivision  
3 of the state, including a chartered city or county, shall adopt or  
4 enforce any ordinance or regulation that is inconsistent with,  
5 conflicts with, is contrary to, or would have the effect of prohibiting  
6 an activity permitted by those provisions and the regulations  
7 adopted by the board pursuant to those provisions, including this  
8 section.

9 (2) The Legislature finds and declares that the regulation of the  
10 land application of biosolids and other biological solids to land as  
11 a soil amendment, composting, and disposal of biosolids is of  
12 paramount state concern.

13 (e) Notwithstanding any other provision of law, including, but  
14 not limited to, Section 13274 of the Water Code, any existing or  
15 future ordinance or regulation that is contrary to, inconsistent with,  
16 or has the effect of prohibiting an activity permitted by, a regulation  
17 adopted by the board with regard to the composting and disposal  
18 of biosolids is void and of no effect.

19 SEC. 4. Section 43035 of the Public Resources Code is  
20 amended to read:

21 43035. (a) The board, in cooperation with the Office of  
22 Emergency Services, shall develop an integrated waste  
23 management disaster plan to provide for the handling, storage,  
24 processing, transportation, and diversion from disposal sites, or  
25 provide for disposal at a disposal site where absolutely necessary,  
26 of solid waste *and biosolids*, resulting from a state of emergency  
27 or a local emergency, as defined, respectively, in subdivisions (b)  
28 and (c) of Section 8558 of the Government Code.

29 (b) The board may adopt regulations, including emergency  
30 regulations, necessary to carry out the integrated waste management  
31 disaster plan.